

30.10 firms must provide each foreign futures or foreign options customer with a written disclosure tracking the language in either Rule 1.55(b)(7) or paragraphs 6 and 8 of appendix A to Rule 1.55(c), or a comparable disclosure statement prescribed by the firm's home country regulator. The Commission further encourages all firms, whether domestic or foreign, to provide a Rule 1.55 written risk disclosure to all customers, regardless of each customer's respective level of experience. The Commission notes that, in any instance where a firm provides a Rule 1.55(f) customer with a written disclosure, it is not necessary for the firm to obtain an acknowledgment of receipt. In addition, those FCMs that already have provided customers with a disclosure tracking either Rule 1.55(b)(7) or paragraphs 6 and 8 of appendix A to Rule 1.55(c) (or in the case of Rule 30.10 firm, a comparable disclosure statement prescribed by its home country regulatory) need not provide those same customers with an additional written disclosure.

6. For the reasons set forth above, the Commission is revising its interpretation of the secured amount requirement set forth in Rule 30.7. The Commission believes that the Rule 30.7 acknowledgment required of FCMs, or other appropriate acknowledgment required by Rule 30.10 firms, only applies to the maintenance of the account or accounts containing foreign futures and foreign options customer funds by the initial depository, and not to the manner in which any subsequent depository holds or subsequently transmits those funds. If an FCM receives from the initial depository the acknowledgment described in Rule 30.7, furnishes to each foreign futures or foreign options customer a written disclosure statement tracking the language set forth in Rule 1.55(b)(7) or paragraphs 6 and 8 of appendix A of Rule 1.55(c) and otherwise complies with the pro-

visions of Rule 30.7, then it may include all funds maintained in the separate account or accounts in calculating its secured amount requirement. A Rule 30.10 firm must satisfy the same requirements, except that it may provide each foreign futures or foreign options customer with a comparable disclosure statement prescribed by its home regulator.

7. IF an FCM or Rule 30.10 firm fails to receive the required acknowledgment from the initial depository or provide the above written disclosure statement (and in certain circumstances, receive from customers and acknowledgment of receipt), then it must set aside funds with an acceptable depository and receive from such depository the required acknowledgment.

8. The Commission's interpretation of the Rule 30.7 secured amount requirement will apply to all regulated activities with all new and existing foreign futures and foreign options customers as of October 11, 2000. The Commission's interpretation does not alter any other requirement set forth in Rule 30.7 or any other section of part 30.

[65 FR 60558, Oct. 11, 2000]

#### APPENDIX C TO PART 30—FOREIGN PETITIONERS GRANTED RELIEF FROM THE APPLICATION OF CERTAIN OF THE PART 30 RULES PURSUANT TO § 30.10

Firms designated by the Sydney Futures Exchange Limited.

FR date and citation: November 7, 1988, 53 FR 44856.

FR date and citation: April 13, 1993, 58 FR 19210.

FR date and citation: March 7, 1997, 62 FR 10447.

FR date and citation: 70 FR 40395, July 17, 2006.

Firms designated by the Singapore Derivatives Trading Limited.

FR date and citation: January 10, 1989, 54 FR 809.

FR date and citation: September 16, 1999, 64 FR 50251.

FR date and citation: September 4, 2007, 72 FR 50645.

Firms designated by the Montreal Exchange.

FR date and citation: March 17, 1989, 54 FR 11182.

FR date and citation: February 27, 1997, 62 FR 8877.

Firms designated by the Toronto Futures Exchange.

FR date and citation: March 22, 1990, 55 FR 10614.

Authorized Persons as designated in Annex E to the Mutual Recognition Memorandum of Understanding

FR date and citation: June 13, 1990, 55 FR 2390; December 23, 1991, 56 FR 66345.

8. Transactions in other jurisdictions.

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation which may offer different or diminished investor protection. Before you trade you should enquire about any rules relevant to your particular transactions. Your local regulatory authority will be unable to compel the enforcement of the rules of the regulatory authorities or markets in other jurisdictions where your transactions have been effected. You should ask the firm with which you deal for details about the types of redress available in both your home jurisdiction and other relevant jurisdictions before you start to trade.

Firms designated by the Tokyo Grain Exchange.

FR date and citation: February 23, 1993, 58 FR 10957; May 2, 1994, 59 FR 22506.

Firms designated by the MEFF Sociedad Rectora de Productos Financieros Derivados de Renta Fija ("MEFF Renta Fija").

FR date and citation: June 9, 1995, 60 FR 30466.

Firms designated by the New Zealand Futures and Options Exchange ("NZFOE").

FR date and citation: December 10, 1996, 61 FR 64989.

Firms designated by the MEFF Sociedad Rectora de Productos Financieros Derivados de Renta Variable ("MEFF Renta Variable").

FR date and citation: April 8, 1997, 62 FR 16690.

Firms designated by the Financial Services Authority ("FSA").

FR date and citation: October 10, 2003, 68 FR 58587.

Firms designated by the Australian Stock Exchange Limited ("ASXL").

FR date and citation: 68 FR 39006, July 1, 2003.

FR date and citation: 70 FR 75937, December 22, 2005.

Firms designated by the Taiwan Futures Exchange.

FR date and citation: March 28, 2007, 72 FR 14413.

Firms designated by the Tokyo Commodity Exchange.

FR date and citation: February 9, 2006, 71 FR 6759.

Firms designated by the Bolsa de Mercadorias & Futuros.

FR date and citation: July 8, 2002, 67 FR 45056.

Firms designated by Eurex Deutschland.

FR date and citation: May 8, 2002, 67 FR 30785.

[54 FR 809, Jan. 10, 1989]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting appendix C to part 30, see the List of CFR Sections Affected, which appears in the Finding Aids sections of the printed volume and on GPO Access.

#### APPENDIX D TO PART 30—INFORMATION THAT A FOREIGN BOARD OF TRADE SHOULD SUBMIT WHEN SEEKING NO-ACTION RELIEF TO OFFER AND SELL, TO PERSONS LOCATED IN THE UNITED STATES, A FUTURES CONTRACT ON A FOREIGN NON-NARROW-BASED SECURITY INDEX TRADED ON THAT FOREIGN BOARD OF TRADE

A. Section 2(a)(1)(C)(iv) of the Commodity Exchange Act ("Act") generally prohibits any person from offering or selling a futures

contract based on a security index in the U.S., except as otherwise permitted under the Act, including Section 2(a)(1)(C)(ii) of the Act. By its terms, Section 2(a)(1)(C)(iv) of the Act applies to futures contracts on security indices traded on both domestic and foreign boards of trade. Section 2(a)(1)(C)(ii) of the Act sets forth three criteria to govern the trading of futures contracts on a group or index of securities on contract markets and derivatives transaction execution facilities:

(1) The contract must provide for cash settlement;

(2) The contract must not be readily susceptible to manipulation or to being used to manipulate any underlying security; and

(3) The group or index of securities must not constitute a narrow-based security index.

B. While Section 2(a)(1)(C)(ii) of the Act provides that no board of trade or derivatives transaction execution facility may trade a security index futures contract unless it meets the three criteria noted above, it does not explicitly address the standards to be applied to a foreign security index futures contract traded on a foreign board of trade. The Office of General Counsel has applied those same three criteria in evaluating requests by foreign boards of trade to allow the offer and sale within the United States of their foreign security index futures contracts when those foreign boards of trade do not seek designation as a contract market or registration as a derivatives transaction execution facility to trade those products.<sup>1</sup>

C. In the analysis of a no-action request for a foreign security index futures contract traded on a foreign board of trade, the Office of the General Counsel asks the Division of Market Oversight (Division) to evaluate the foreign security index futures contract to ensure that it complies with the three criteria of Section 2(a)(1)(C)(ii) of the Act.

D. Because security index futures contracts are cash settled, the Division also evaluates the contract to ensure that the

<sup>1</sup>With regard to the third criterion, and CFTC and SEC jointly promulgated Rule 41.13 under the Act and Rule 3a55-3 under the Securities Exchange Act of 1934 ("Exchange Act"), governing security index futures contracts traded on foreign boards of trade. These rules provide that "[w]hen a contract of sale for future delivery on a security index is traded on or subject to the rules of a foreign board of trade, such index shall not be a narrow-based security index if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered derivatives transaction execution facility." CFTC Rule 41.13, 17 C.F.R. §41.13; Exchange Act Rule 3a55-3, 17 C.F.R. §240.3a55-3.